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7 CITY OF VISALIA

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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

LAIDLAW TRANSIT SERVICES, INC.

CASE NO: 1:05-cv-0199-AWI-SMS

**Plaintiff,**

**STIPULATION OF DISMISSAL  
AND ORDER THEREON**

CITY OF VISALIA.

**Defendant:**

17 CITY OF VISALIA

18 Counter-Claimant

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20 LAIDLAW TRANSIT SERVICES, INC.

21 Counter-Defendant

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A written settlement agreement having been reached, Plaintiff/Counter-Defendant

LAIIDLAW TRANSIT SERVICES, INC., through its counsel, HAGER, TRIPPEL, MACY &

JENSEN and DUNN, LEE & KEARY and Defendant/Counter Claimant CITY OF VISALIA

26 through its counsel, DOOLEY HERR & PELTZER, LLP hereby stipulate that the above-captioned  
27 matter be dismissed with prejudice pursuant to FRCP 41(a)(1).

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& PELT.  
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2 DATED: June 20, 2006 HAGER, TRIPPEL, MACY & JENSEN

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4 By: /s/ Paul R. Hager

PAUL R. HAGER

5 Attorney for LAIDLAW TRANSIT SERVICES, INC.

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7 DATED: June 20, 2006 DUNN, LEE & KEARY

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9 By: /s/ Stephen W. Dunn

STEPHEN W. DUNN

10 Attorney for LAIDLAW TRANSIT SERVICES, INC.

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DATED: June 20, 2006 DOOLEY HERR & PELTZER, LLP

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13 By: /s/ Leonard C. Herr

14 LEONARD C. HERR

Attorney for CITY OF VISALIA

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## ORDER

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The parties seek dismissal of this action pursuant to Rule 41(a) of the Federal Rules  
18 of Civil Procedure. Rule 41(a)(1), in relevant part, reads:

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an action may be dismissed by the plaintiff without order of court (i) by  
20 filing a notice of dismissal at any time before service by the adverse party  
of an answer or of a motion for summary judgment, whichever first  
21 occurs, or (ii) by filing a stipulation of dismissal signed by all parties who  
have appeared in the action. Unless otherwise stated in the notice of  
22 dismissal or stipulation, the dismissal is without prejudice, except that a  
notice of dismissal operates as an adjudication upon the merits when filed  
by a plaintiff who has once dismissed in any court of the United States or  
23 of any state an action based on or including the same claim.

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Rule 41(a)(1)(ii) thus allows the parties to dismiss an action voluntarily, after service of an  
25 answer, by filing a written stipulation to dismiss signed by all of the parties who have  
26 appeared, although an oral stipulation in open court will also suffice. Carter v. Beverly Hills  
27 Sav. & Loan Asso., 884 F.2d 1186, 1191 (9th Cir. 1989); Eitel v. McCool, 782 F.2d 1470,  
28 1472-73 (9th Cir. 1986). Once the stipulation between the parties who have appeared is

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2 properly filed or made in open court, no order of the court is necessary to effectuate  
3 dismissal. Fed. R. Civ. Pro. 41(a)(1)(ii); Eitel, 782 F.2d at 1473 n.4.

4 Therefore, IT IS HEREBY ORDERED that this action is DISMISSED and the  
5 Clerk of the Court is DIRECTED to close this case in light of the parties' filed and signed  
6 Rule 41(a)(1)(ii) Stipulation For Dismissal With Prejudice.

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8 IT IS SO ORDERED.

9 **Dated:** June 21, 2006  
10 0m8i78

/s/ Anthony W. Ishii  
UNITED STATES DISTRICT JUDGE

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